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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,445	01/06/2004	Masahiro Odashima	031356	2568
23850	7590	05/21/2007		
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			EXAMINER BRANDT, MICHAEL J	
			ART UNIT 2837	PAPER NUMBER
			MAIL DATE 05/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/751,445

Applicant(s)

ODASHIMA ET AL.

Examiner

Michael Brandt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20040106 and 20051123.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 12-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as they both claim movement control programs (see MPEP 2106.01).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4 and 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites the limitation "within the predetermined time" in the fourth line of the claim. There is insufficient antecedent basis for this limitation in this claim. Claims 12-15 all recite the limitation " the movement control program" in the first line of each claim and claims 14-15 additionally recite it in the second line of each claim. There is insufficient antecedent basis for these limitations in each claim.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,453,112 (hereinafter Sauer et al.) and further in view of U.S. Patent 5,351,439 (hereinafter Takeda et al.).

Sauer et al. discloses [Abstract] an electronic safety device for controlling the drive of a motor attached to a sliding window which has a built in proximity detector for detecting the incoming approach of an object, e.g. a human hand. This detector is comprised of a capacitive pickup carried along the upper edge of the window, i.e. disposed in the movement path of the window.

Sauer et al. does not expressly disclose the monitoring of temperature along this movement path in order to control the operation of the window.

Takeda et al. discloses a power window apparatus with a safety device in which a window is driven by a drive source, and when an object is caught in the window during the movement of the window in the closing direction, the safety device operates to stop the closing movement of the window, the power window apparatus comprising temperature detecting means for detecting ambient temperature, wherein the operation

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of the drive source is controlled in accordance with temperature detected by the temperature detecting means (column 2, lines 48-58).

Sauer et al. and Takeda et al. are analogous art to the instant application because they are from the same field of endeavor of automatic movement control of a barrier.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to monitor a temperature, as disclosed in Takeda et al., along the movement path of the window, as with the proximity detector of Sauer et al., in order to aid in controlling the movement of the window.

The motivation for this comes from the fact that U.S. Patent 6,875,976 (Breed et al.) discloses that convenience features are offered for use on vehicles in which vehicle windows are automatically lowered or opened a prescribed distance once a control system determines a certain temperature threshold, internal or external, has been met or exceeded, e.g. control of the window is determined by at least one sensed temperature (column 1, lines 38-50).

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brandt whose telephone number is (571) 270-1745. The examiner can normally be reached on Monday through Thursday 7:30a.m. - 6:00p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bruce can be reached on (571) 272-2487. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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DAVID BRUCE  
SUPERVISORY PATENT EXAMINER